# January 14, 2013 REGULAR SESSION

The Regular Session of the Auburn City Council was held in the Council Chambers, City Hall, 1225 Lincoln Way, Auburn, California on Monday, January 14, 2013 at 6:05 p.m. with Mayor Hanley presiding and City Clerk Stephanie Snyder recording the minutes.

CALL TO ORDER at 5:30 p.m.

#### **ROLL CALL:**

**Council Members Present:** 

Bridget Powers, Kevin Hanley, Keith

Nesbitt, William W. Kirby

**Council Members Absent:** J. M. "Mike" Holmes (entered at 5:31 p.m. and was present for closed session)

**Staff Members Present:** City Manager Robert Richardson, City Attorney Michael Colantuono, Community Development Director Will Wong, Fire Chief Mark D'Ambrogi, Public Works Director Bernie Schroeder, Public Works Engineer Carie Huff, Transit Analyst Megan Siren, Administrative Services Director Andy Heath and Police Chief John Ruffcorn.

By **MOTION** adjourn to a Closed Session under Government Code Section 54957.6

# MOTION: Kirby/ Powers/ Unanimously approved by voice

## 1. Conference with Labor Negotiators:

(G.C. 54957.6)

Agency Designated Representatives: Robert Richardson, Patrick Clark

Employee Group: Auburn Police Officers Association

#### REPORT OUT OF CLOSED SESSION

Mayor Hanley reported that instructions were given to the labor negotiators and there were no other reportable actions.

#### PLEDGE OF ALLEGIANCE

AGENDA APPROVAL

The agenda was approved as presented by consensus of the Council.

#### CONSENT CALENDAR

#### 1. Warrants

By **RESOLUTION 13-01** approve Warrants #81076 through #81498 totaling \$3,817,709.80.

#### 2. Minutes

By **MOTION**, approve City Council minutes of 11/19/2012, 12/03/2012 and 12/10/2012.

### 3. Appointment of Historic Design Review Commissioner

By **RESOLUTION 13-02**, re-appoint Liz Briggs to the Historic Design Review Commission.

## 4. <u>Mayoral Appointments to Board and Commissions</u>

By **MOTION**, affirm Mayor Hanley's nominations of Councilmembers to serve on various boards and commissions and by MOTION, approve the tentative FPPC Form 806 listing compensated Councilmember appointments to boards and commissions.

# 5. <u>Mobile Food Vending on Private Property – Second Reading of Ordinance</u>

Hold a second reading, by title only, of an **ORDINANCE 13-01** amending the Auburn Municipal Code by adding Chapter 159.176 *et. seq.* to regulate mobile food vending on private property.

By **MOTION**, direct staff to initiate proceedings to amend the levy of assessments for the Downtown Business Improvement District (BID) to include mobile food vending.

# 6. Amendment of City Ordinance Limiting Liability

Hold a second reading, by title only, of an **ORDINANCE 13-02** to add Section 10.23 to the Auburn Municipal Code regarding limitation of tort liability for acts of omissions of city officers and employees.

# 7. Quarterly Report of Investments – Quarter Ending September 30, 2012

Receive, review and file the "City of Auburn Quarterly Investment Report" for the quarter ending September 30, 2012.

# 8. <u>Auburn Municipal Airport Capital Improvement Plan Update 2012-2018</u>

By **MOTION**, authorize the Director of Public Works to submit the Auburn Municipal Airport Capital Improvement Plan 2012-2018 to the Federal Aviation Administration.

# 9. <u>2012 Street Overlay Project – Dairy Road – Notice of Completion</u>

By **RESOLUTION 13-03**, authorize the recording of a Notice of Completion to Baldwin Contracting Company, Inc. (DBA Knife River Construction) for the 2012 Street Overlay Project – Dairy Road.

# 10. Street Sweeper Repower

By **RESOLUTION 13-04**, authorize the Director of Public Works to repower the 2002 Johnson Street Sweeper.

# 11. Palm Avenue Sidewalk and Bicycle Lane Project - Update

Receive, review and file update on the Palm Avenue Sidewalk and Bicycle Lane Project.

#### 12. Surplus Equipment

By **RESOLUTION 13-05**, declare as surplus to the City's needs the equipment listed on exhibit A and direct staff to contract with an auctioneer to assist the City in disposal of equipment or properly dispose of items.

# 13. City of Auburn ADA Transition Plan - Consultant Agreement

By **RESOLUTION 13-06**, authorize the Director of Public Works to execute a consultant agreement with VANIR Construction Management for Phase 1 of the City of Auburn's ADA Transition Plan in an amount not to exceed \$37,032.

# 14. Airport Operations Technician Position Recruitment

By **MOTION**, authorize the recruitment of the Airport Operations Technician position.

# 15. <u>Lease Purchase Agreement - Public Works Dump Truck</u>

By MOTION, approve the consent calendar. MOTION: Holmes/Powers/Approved 5:0

#### 16. Public Comment

Fire Chief Mark D'Ambrogi, representing Western Placer County Fire Chiefs Association, informed the Council of an online survey opportunity and invited them to the monthly meeting in February to discuss challenges and opportunities on the Western Slope.

Council Member Nesbitt congratulated Wayne Manning on being sworn in as the new President of the Auburn Chamber of Commerce, and Harvey Roper for receiving the Lifetime Achievement Award.

#### **PUBLIC HEARING**

#### 17. Mobile Food Vendors in the City's Public Right of Way

Associate Planner Lance Lowe presented this item. He said the public hearing is continued from the October 22, 2012 City Council meeting. He said the ordinance prohibits mobile food vendors in the public right-of-way in the Old Town and Downtown Historic Districts per the same map approved in regards to mobile food vendors on public property. He said the mobile food vendors will be subject to business improvement district fees if conducting business in either district. He reviewed the regulations in regards to applying for a business license, time parked at any one spot, where the vehicle must be parked, signage and exemptions. He said staff consulted the school district in regards to mobile food vendors, and they expressed concern about these vendors being in the public right-of-way in proximity to the high school. He said they recommended a 1000 foot radius from the high school grounds.

Council Member Kirby asked about the overlap (in restricted areas) on the maps provided to Council. He also asked about the correspondence from the school district and what other local cities prohibit mobile food vending at their schools.

Jim Anderson, business owner (Taco Tree) in Auburn, spoke about the negative effects of mobile food vending in the public right-of-way near his business.

Council Member Nesbitt said he supports the 1000 foot radius and said he would like to see the "triangle between the two restricted areas included".

Council Member Holmes said he supports this proposed ordinance and said he would like to see the section regarding sales to students adjacent to Placer High School grounds included.

Council Member Kirby spoke of the restricted areas on the map with the distance separation requirement from the high school.

Mayor Hanley spoke of the challenged areas around the school, and the danger of adding mobile food vendors to that area. He said he supports either the 750 foot and 1000 foot radius from the high school.

- **A.** By Motion, introduce and hold a first reading, by title only, of an ordinance as amended by the City Council, amending the Auburn Municipal Code by adding Chapter *72.31 et. seq.* entitled Regulation of Mobile Food Vendors in the Public Right of Way, which includes the following actions:
- 1. Adoption of a Categorical Exemption prepared for the Mobile Food Vending Ordinance as the appropriate level of environmental review in accordance with Section 15311 (Accessory Structures) and Section 15304(e) (Minor Alterations to Land) of the CEQA Guidelines;
- 2. Adoption of Findings of Fact for approval of the Mobile Food Vending Ordinance, as presented in the staff report;
- 3. Approval of the Mobile Food Ordinance in the Public Right of Way as presented in the staff report; and,
- 4. Include Section 72.31.080 (B) Entitled "Sales to Students Adjacent to High School Grounds", to create a 1000 foot distance separation requirement for Mobile Food Vendors, in proximity to Placer Union High School as discussed in this staff report.
- **B.** Direct Staff to Initiate Proceedings to Amend the Levy of Assessments for the Old Town and Downtown Business Improvement District (BID) to include Mobile Food Vending, in the Public Right of Way.

#### **MOTION: Holmes/Nesbitt/Approved 5:0**

#### **REPORTS**

#### 18. Arts Commission Report

Lee Buckingham, Chair of the Arts Commission presented this report. He reviewed the commission's activities during the past year. He also updated the Council on current activities of the commission. He reviewed the budget for the commission and costs occurred during the past year. He also requested to hold an open competition to design a logo for the commission. He said this would provide a form of identification for the Arts Commission.

Mayor Hanley asked how a separate and distinct logo for the commission would help improve the arts or raise money for the commission.

Lee Buckingham said it gives the commission an identity apart from the City. He said they would still like it to incorporate a look of the City, but provide a logo for Arts Commission activities.

Council Member Holmes said a logo for the Arts Commission would not have to be considered separate from the City, but act as another logo for the City's use. He said the proposed logo would still have to come back to the City Council for approval.

Council Member Nesbitt said he sees no harm in the Arts Commission having a logo to identify their commission's activities.

Council Member Kirby said he supports the idea of a logo for the commission. He spoke of the positive impact the Arts Commission on the community.

Council Member Powers said the Endurance Capital Committee has its own logo and she supports a logo for the Arts Commission.

Mayor Hanley said he has mixed feelings in regards to a logo. He said he would prefer it not be too distinct from the City of Auburn because the commission is not a private organization; it is a city commission. He said he would like it to be made clear that it is the "City of Auburn" Arts Commission. He said he is very impressed with all the work the commission does. He spoke of the murals throughout the city that have faded over time as a possible future project for the Arts Commission.

Lee Buckingham said an inventory for the art around town has been started and the commission plans to complete that soon.

Council Member Kirby asked about art donated to the city and the maintenance responsibilities.

Public Works Director Bernie Schroeder said there will be an agreement on each piece that will have a provision for maintenance.

City Manager Robert Richardson said each piece that is accepted has a maintenance plan with the city. He said the Arts Commission is usually consulted due to their expertise.

Council Member Holmes spoke of cleaning up the artwork on the back of the Elk's Lodge. He also talked about private art as opposed to public art owned by the city.

#### **COUNCIL BUSINESS**

#### 19. Results of Annual Audit – Fiscal Year 2011-12

Finance Director Andy Heath presented this item. He reviewed the purpose and scope of the audit, the audit opinion, the Comprehensive Annual Financial Report (CAFR), selected financial information (FY 2011-12), the management report and related auditor recommendations (report available in permanent record). In his conclusion he restated the following: (1) the City received an unqualified opinion on Audit of FY 2011-12 financial statements, (2) the General Fund recognizes the first surplus since FY 2005-06, (3) Capital outlay and maintenance during FY 2011-12 was approximately \$2.9 million, (4) City General Fund Reserves/ Fund Balances are at \$2.73 million at the end of FY 2011-12, and (5) the City's Comprehensive Annual Financial Report receives its sixth consecutive GFOA Award for Financial Reporting Excellence.

Council Member Kirby asked what a "healthy" reserve balance would be for a city the size of Auburn.

Andy Heath said it is optimal to have a 50% reserve (based on the current budget) but 30% of the budget (the current balance) is prudent in his opinion. He said the city went through an analysis in 2004 and 2 million dollar was the recommended reserve balance.

Council Member Powers asked about the additional funds to be put in the reserve, the policy that was recommended in the audit, the land in the dissolved redevelopment agency, and sewer fund balances.

Council Member Nesbitt asked about personnel services costs and the breakout of public safety personnel cost.

Council Member Holmes asked about Community Development Block Grant loans status, past results in audits, and the redevelopment property.

Mayor Hanley asked for more information about the Governmental Accounting Standards Board (GASB) Statement #54.

Richard Sanborn, resident of Auburn, commented on Sewer and Airport Funds, wanting to be sure restricted funds are not borrowed and used for anything else.

Andy Heath assured him they are not, and invited him to visit his office at any time for more information.

Council Member comments followed congratulating Andy Heath on the thorough report and thanked him and his staff for their work.

### 20. Support for American River Canyon Overlook Facility

Council Member Holmes presented this item. He gave background on this project which is proposed to be built on county property. He said the Auburn State Recreation Area (ASRA) has submitted a proposal for a grant for the first phase of construction.

Council Member questions followed regarding funding for maintenance for the facility, the county's responsibilities, and the grant awarding organization.

Mike Lynch, State Parks Superintendent for the Auburn State Recreation Area, provided additional background on this facility. He said it is a transportation related mitigation grant through their organization. He said they are looking for community support for this grant. He said if they receive the grant, they will finalize a contract with Placer County for future maintenance.

Council Member comments followed regarding supporting the ASRA by sending a letter of support.

By **MOTION**, approve the submission of a letter of support for the American River Canyon Rim Overlook Facility grant application to the Gold Fields District, California Department of Parks and Recreation. **MOTION:** Holmes/Powers/Approved 5:0

#### 21. <u>Proposed Ordinance Banning Smoking in the Auburn School Park</u> <u>Preserve</u>

Council Member Holmes presented this item. He said his concerns with the park include trash and illegal marijuana smoking. He said the City of Auburn receives a grade F in the annual report from the American Lung Association. He said this could be an action to signify that the city is interested in reducing the amount of smoking in public recreation areas.

Council Member Nesbitt asked about enforcement of this type of ordinance.

Council Member Kirby spoke about the negative effects of smoking and his personal experience with many smoking related cancers. He said smoking should be banned in all public areas of the city. He said he would like to see a ban on smoking in Central Square. He said smoking in public areas like these is extremely offensive. He spoke of the danger of second hand smoke to all the people around the smoker.

Council Member Nesbitt said he would like to see a smoking ban at transit shelters due to mobility issues of some people using public transportation.

Mayor Hanley said he is not in favor of this item. He said he doesn't feel a ban on smoking in the park would deter people from smoking. He said second hand smoke is a problem in confined areas. He said the School Park Preserve is not a confined area. He said a more effective law to deter people from smoking would be health insurance premium ratings for tobacco users. He said he visited the park this afternoon and does not see an issue with littered cigarette butts. He spoke of other ways to make the park cleaner. He said he feels it is wrong to suggest there is marijuana smoking occurring in the park, without evidence. He said it would not be a good use of Auburn officer's time to enforce a no smoking law in the park. He said he favors further efforts to make sure the park is clean and further efforts to try to reduce smoking. He said it is not worth the city's resources to start fining people in a park who smoke. He said they are not causing anyone any harm.

Council Member Kirby reiterated that a smoker sitting on a park bench smoking effects people 20 feet around them. He said in a public area that should not be tolerated. He said smokers are denying other people the right to use that space by their ignorant and offensive behavior which should not be condoned by the city.

By **MOTION**, direct the City Attorney and staff to develop a proposed ordinance banning smoking in the Auburn School Park Preserve.

MOTION: Holmes/Kirby/Approved 4:1 (Hanley voted no)

**CITY COUNCIL REPORTS** 

#### 22. **City Council Committee Reports**

Council Member Kirby reported on the Placer Nevada Wastewater Authority and the importance of coming to a wastewater solution. He also reported on the homeless problem in the area and the great work by the Gathering Inn.

Council Member Holmes reported on the 125<sup>th</sup> anniversary of the reincorporation of the City of Auburn, SEDCorp JPA, Placer County Air Pollution Control District grants, Auburn Placer Performing Arts Center grant, Placer Consortium on the Homeless meeting, Auburn State Recreation Area, and a proposed change to Auburn Chamber of Commerce bylaws.

Council Member Nesbitt reported on SHAAC's recent meetings, Downtown Business Association meeting regarding Christmas Lighting in the future, Economic Development Commission's recent activities, and the Oversight Committee to the Successor Agency.

#### **ADJOURNMENT**

tephanie L. Snyder, City

Mayor Hanley adjourned the meeting without objection at 8:15 p.m.

Kevin Hanley, Mayor